

IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

THURSDAY, THE FIRST DAY OF JULY

TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE A.GOPAL REDDY

WRIT PETITION NO : 23630 of 2003

Between:

Mohd.Abdul Lateef S/o. Late M.A.Aziz,
R/o.16-2-836/7/10, Press Colony, Saidabad,

Hyderabad.

..... PETITIONER

AND

- 1 Shuja-ur-Rahman Qaureshi S/o. Qureshi
R/o.Behind Mir Chowk P.S., Hyderabad.
- 2 Inspector of Police, P.S.Mir Chowk, Hyderabad.
- 3 Commissioner of Police, Hyderabad City Police, Hyderabad

.....RESPONDENT(S)

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue appropriate writ more specially in the nature of Mandamus declaring the acts of the respondent No.2 as illegal and violative of fundamental rights enshrined in the

Constitution and further directing the respondent No.2 not to interfere in the personal life of the petitioner and her family members.

For the Petitioner:MR.AHMED KHAN, Advocate

For the Respondent No.1: Mr.Venu Gopala Rao.P, Advocate

For the Respondent No.2 and 3 : GP FOR HOME

The Court Made the Following :

ORDER:

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The substratum of the grievance ventilated in the writ petition is whether the police without there being any registration of crime, sent police personnel to the petitioner's house in odd hours and summoned the petitioner to the police station on a number of occasions and made him available to sit in the police station and threatened him to implicate in criminal cases for failure to pay huge amount to respondent No.1.

Petitioner states that on 4-11-2003 at around 10.00 to 11.00 A.M. respondents visited the residence of the petitioner with full police personnel and called upon the petitioner and lifted him in the jeep and took him to police station where he was thrashed and made him to execute a promissory note of Rs.3,00,000/- in favour of respondent No.1 and called the petitioner with a warning that he should pay the amount to the 1st respondent.

First respondent filed a counter denying execution of promissory note of Rs.3,00,000/- in his favour by the petitioner in the police station. He, being a qualified engineer while working in Saudi Arabia for 7 years before 1999 petitioner requested to invest an amount of Rs.3,00,000/- for improvement of his business and accordingly, the 1st respondent invested the said amount in the business carried out in the name and style of Latif Textiles, at Patel Market, Charminar, Hyderabad. Again in the year 2001, the petitioner requested to advance an amount of Rs.3,00,000/- towards interest free loan to get lift the documents mortgaged with the financier who promised to return the documents within 2 months. A new branch was started at Musheerabad, Bangladesh Market, for which 1st respondent invested a

sum of Rs.1,00,000/-. When he demanded repayment of the loan in the presence of elders and mediators, the petitioner instead of repaying the loan threatened him. In view of the same, he lodged a complaint with the police 3 times for taking appropriate action against the petitioner for sending rowdy sheeters to forgo the amount received by him.

The Inspector of police, Mirchowk police station-2nd

respondent filed a counter on behalf of respondents 2 & 3 stating that 1st respondent complained before the Assistant Commissioner of police, Mirchowk Division, Hyderabad and also before the 3rd respondent police station on 31-12-2002 & 9-4-2003 respectively. But, no case was registered, as the matter was non-cognizable and relating to the civil disputes. 1st respondent made a fresh complaint dated 29-10-2003 before the 3rd respondent, stating that earlier complaints made by him to Mirchowk Police station, proved futile and petitioner and his henchman-Ibrahim, threatened him for return of promissory note executed by the petitioner in his favour and to take back the earlier complaint made by him against the petitioner. The said complaint was forwarded to the Assistant Commissioner of Police, Mirchowk Division, Hyderabad, who in turn forwarded to the second respondent for enquiry. On receipt of the same, a police constable was sent to the residence of the petitioner on 1-11-2003 calling him to approach the police station for the purpose of enquiry into the allegations made by the first respondent in the complaint dated 29-10-2003. Without approaching the police station, the petitioner filed the present writ petition apprehending that the police may again take him to Police Station basing upon the complaint dated 29-10-2003.

It is specifically denied about respondents visiting the house of the petitioner on 4-11-2003 and taking him to police station where made him to execute a promissory note for Rs.3,00,000/- in favour of the 1st respondent.

1st respondent filed a complaint on 29-10-2003 before the police alleging that the petitioner is threatening for return of promissory note executed by the petitioner by sending brother of ex-rowdy sheetar Ibhrim, but the averments made in the affidavit have not been controverted by filing any reply with regard to the execution of the promissory note in favour of the 1st respondent.

In view of the same, the contention of the petitioner that he was made to sit in the police station and promissory note was obtained for a sum of Rs.3,00,000/- is only an after thought and made for the purpose of filing writ petition to prevent police from registering the crime and not to take any action on the complaint made by the 1st respondent.

In view of the categorical denial by the 2nd respondent about the harassment meted out to the petitioner, no further direction need be issued in the writ petition. As and when there is any interference by the police or harassment the petitioner is at liberty to make a complaint to the higher officials of the police as contemplated under Section 154 (3) of CRPC.

The Writ Petition is accordingly dismissed. No costs.

(A.GOPAL REDDY, J)

1st July, 2004.

MRB

ASSISTANT REGISTRAR

// TRUE COPY//

SECTION OFFICER

To

- 1 Shuja-ur-Rahman Qaureshi S/o. Qureshi
R/o.Behind Mir Chowk P.S., Hyderabad.
- 2 Inspector of Police, P.S.Mir Chowk, Hyderabad.

3 Commissioner of Police, Hyderabad City Police, Hyderabad

4. Two CCs to G.P. for Home, High Court of A.P., Hyderabad.

5. Two CD Copies.

He him out, lifted in the jeep and took him to the police station where he was trashed and made him to execute a promissory note worth Rs.3,00,000/- in favour of the 1st respondent and allow to leave the petitioner with a warning that he pay the said amount to the 1st respondent.

The learned counsel for the respondent No.1 filed a counter affidavit stating

that he denying the execution of the promissory note Rs.3,00,000/- in his favour in the police station. The learned counsel for the 1st respondent further contended that he was a qualified Civil Engineer and worked in Saudi Arabia for 7 years before 1999. When he was working in Saudi Arabia, the petitioner requested me to invest an amount of Rs.3,00,000/- for the improvement of his business. Accordingly the 1st respondent invested the said amount in the business doing in the name and style of Latif Textiles at Patel Market, Charminar, Hyderabad. Again in the year 2001 the petitioner requested to the 1st respondent to advanced an amount of Rs.3,00,000/- towards an interest free loan to get his original documents pertaining to his house at Darulshafa, which were mortgaged with a financier and the said amount will be returned within a period of 2 months or the moment he sells his house which ever is earlier and he has executed a promissory note to this effect. During this period i.e., in December, 2001, the petitioner started a new branch at Musheerabad, Bangladesh Market, for which the 1st respondent has invested Rs.1,00,000/-. When the 1st respondent demanded for repayment of loan in the presence of elders and mediators, the petitioner agreed to repay the loan amount without any conditions. In view of the same the 1st respondent lodged a report with Assistant Commissioner of Police Mir Chowk that if anything happens to me or and my family members, the petitioner, his brother-in-law and his father-in law are only responsible. 1st respondent requested immediate action in the matter. As there was no action and threats continued, he sent a reminder dated 9-4-2003 to respondent No.2-Inspector of Police, P.S., Mir Chowk, Hyderabad. Even after that there was no action. The associates of the petitioner include Ex-Rowdy sheeter Mandi Shakeel and his brother Imbrahim started threatening to the 1st respondent.

A counter affidavit filed on behalf of the respondent No.2 and 3 stating that the 1st respondent-Commissioner of Police, Hyderabad City Police, Hyderabad, Police Station, made a complaint before the Assistant Commissssioner of police, Mirchowk Division, Hyderabad and also before the 3rd respondent police station on 31-12-2002 & 9-4-2003 respectively. However, no case was taken thereupon as the matter was non-cognizable and relating to the civil disputes.

The 1st respondent made a fresh complaint dated 29-10-2003, which was the 3rd respondent herein, stating therein that the earlier made complaints to the Mir

Chock Police Station and in view of inaction of the police, the petitioner and his henchman, Ibrahim, the brother of an ex-rowdy sheeter have been harassing and threatening him for return of promissory note executed by the petitioner in his favour and to take back the earlier complaint made by him against the petitioner.

The learned counsel for the 2nd and 3rd respondent further contended that the said complaint was forwarded by the Additional Commissioner of Police, Hyderabad to the Assistant Commissioner of Police, Mirchowk Division, Hyderabad, who in turn to this 2nd respondent by the ACP, Mirchowk Division, for enquiry. On receipt of the same, a police constable was sent to the residence of the petitioner on 1-11-2003 calling him to approach this respondent police station for the purpose of made enquiry into the allegations made by the 3rd respondent in the complaint dated 29-10-2003 before the 2nd respondent herein. The petitioner without approaching this respondent police station, filed the present writ petition.

It is specifically denied by the 1st respondent to visit the petitioner's house at odd hours on 4-11-2003 and took him to the police station where he was trashed and made him to execute a promissory note worth Rs.3,00,000/- in favour of the 1st respondent and the petitioner was never harassing and obtained any promissory note in the police station.

The 1st respondent filed a counter affidavit stating that the police alleging that to return the promissory note executed by the petitioner and sending brother of ex-rowdy sheeter Ibhrim and said facts were also stated by him.

In the counter affidavit filed after due service of the petitioner's counsel on 16-12-2003, but the averments so far themselves not to controversial by filing any reply with regard to the execution of the promissory note in favour of the 1st respondent. In view of the same the contention of the petitioner that he was made to sit in the police station and promissory note was obtained for some of Rs.3,00,000/-. He is only after taught made for the purpose of the Court to see to covered the police for registering the crime or taking any action on the complaint made by the 1st respondent.

In view of the same categorically denial of the 2nd respondent about the harassment committed to the petitioner. No further direction need be issued in the

writ petitioner fails and when if there is any interference by the police harassing to the petitioner is at liberty make a complaint in the police station by the helm that we cannot appeal as contemplated under 154 (3) of the Act.

The writ petition is accordingly dismissed. No costs.

1st July, 2004.

Mrb/Murthy

To

1. Two CCs to G.P. for Home, High Court of A.P., Hyderabad.
2. Inspector of Police, P.S.Mir Chowk, Hyderabad.
3. Commissioner of Police, Hyderabad City Police, Hyderabad
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